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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/383,094	08/25/1999	NEMO SEMRET	A32159-07005	6099

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BAKER & BOTTS
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NEW YORK, NY 10112

EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 06/09/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/383,094

Applicant(s)

SEMRET ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (U.S. Patent 6,345,090).

Claim 8: FIG. 1a illustrates an access line interface that partitions telephone lines into first stage lines (lines connecting the calling party 110 to the management system 100) and second stage lines (lines connecting the management system 100 to interexchange carriers 120-124). A processor (management system 100) is coupled at the interface between the first the first stage lines and second stage lines. The number of second stage lines which are available are determined by establishing a database of interexchange carriers (FIG. 5). In FIG. 7, bidding subscribers are queued on the first stage lines with the queue being organized into a database. The “spot price” can be the highest price offered by a non-connected customer, such as the pending \$15 offer made by customer “4120” in FIG. 7. Reservation fees are the fees offered by the customers, such as the \$5.00 fee offered by the customer “4116” and the \$10.00 fee offered by the customer “4117”.

As seen in col. 775 of FIG. 7 a determination is made as to whether a fee has been accepted or rejected. Fees which are accepted become accepted by both the subscriber and the carrier. Fees which are rejected become rejected by both the subscriber and the carrier. A fee which is rejected designates an “unreserved subscriber” by reason that they have not reserved a

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connection to the carrier. Fees which are accepted designates a "reserved subscriber" by reason that these subscribers reserve access to the carrier.

The spot price can be any price in the table or price offered by any customer. However, for purposes of example, it is assumed that the spot price is highest price offered by a non-connected subscriber. In this case, the spot price would be the pending \$15.00 offer made by customer "4120".

The offer made by customer "4116" thus becomes an offer below the spot price made by an unreserved subscriber. The subscriber does not get connected to the carrier since their offer has been rejected.

The offer made by customer "4117" thus becomes an offer below the spot price made by a reserved subscriber. The subscriber gets connected to the network of carriers since that subscriber's offer has been accepted.

The database of FIG. 4 becomes a memory device that stores subscriber account data.

Claim 9: The reservation fees are the bids received by the subscribers. The processor "calculates" these fees in the sense that it receives and records these fees in database. The fees are equal to the bids amounts. Higher fees are associated with longer duration connections to the carriers, as seen in cols. 760 and 770 in FIG. 7.

Claim 10: In Walker et al., the reservation fee is bid made by the user. Thus, the reservation fee is both proportional and inversely proportional to the bid. As seen by a comparison of cols. 760 and 770, the bid price rises proportionally with duration of service.

Claim 11: In FIG. 7, the spot price can be any illustrated price, including the highest bid price of a non-connected subscriber. In the case FIG. 7, the highest bid price of a non-connected

subscriber is the bid by subscriber "4120" who has the highest monetary value bid in the table and is not connected to the carriers.

Claim 12: The processor calculates the total number of available lines by establishing a database of available carriers. The total number of available lines to the subscribers are inherently those lines which are not in use.

Remarks

Applicant's arguments have been considered.

Applicant argues that Walker et al. does not disclose the establishment of a spot price based on a non-admitted subscriber. As stated in the discussion associated with FIG. 1, examiner maintains that any of the prices shown in FIG. 1 could be readable as a spot price, lacking any further positively claimed requirement as to how the spot price is actually established. For purposes of example, examiner designated the highest price offered by a non-connected customer as the spot price. Thus, the \$15 price offered by customer 4120 is designated as the spot price. The spot price is made for a non-admitted subscriber. The subscriber 4120 is not yet admitted into the system, due to the fact the subscriber's offer is pending rather than accepted. Thus the subscriber 4120 sets the spot price and the spot price is made for a non-admitted subscriber.

Applicant argues that Walker et al. does not disclose activating a subscriber or dropping a subscriber. FIG. 7 clearly shows this feature. The subscribers are activated by having their offers accepted and the subscribers are dropped by having their offers rejected. The customers which are accepted or dropped exist relative to the spot price. All customers above the spot price are

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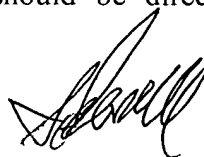
connected to the system. Some customers below the spot price are still accepted, while some are rejected.

Applicant further argues that Walker et al. does not disclose the step of determining reservation fees. Examiner maintains that this feature is taught in FIG. 7. The fees are those prices which are offered by the customers, such as the \$5.00 offered by customer 4116 and \$10.00 offered by customer 4117.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell
Primary Examiner
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